



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 28, 1996

Mr. Myra C. Schexnayder
Feldman & Associates
12 Greenway Plaza, Suite 1202
Houston, Texas 77046

OR96-0437

Dear Ms. Schexnayder:

As attorney for Alvin Community College (the "college"), you ask that this office reconsider its decision in Open Records Letter No. 96-0028 (1996) (referred to herein as "OR96-0028") that portions of attorney billing statements from your law firm and another firm to the college are not excepted from required public disclosure pursuant to the attorney-client privilege as incorporated in section 552.107(1) of the Government Code. Your request for reconsideration was assigned ID# 38353.

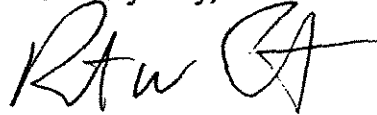
As this office noted in OR96-0028, section 552.107(1) protects only attorney advice and opinion or client confidences. *See* Open Records Decision No. 574 (1990). As we stated, "if a governmental body seeks to withhold attorney fee bills under section 552.107(1), the governmental body must identify the portions that reveal client confidences or attorney advice. *See* Open Records Decision No. 589 (1991)." OR96-0028 at 2. This office's decision in OR96-0028 hinged, at least in part, on that fact that you did not meet your initial burden of demonstrating the applicability of the attorney-client privilege in that you did not identify the specific portions of the billing statements that reveal "client confidences or legal advice and opinion," nor did you provide this office with sufficient information to determine which entries or portions of entries consisted of attorney-client privileged information.

In your request for reconsideration, you have further identified specific entries that you contend reveal attorney-client confidences and have identified certain named individuals as client representatives. While this information is useful and, in fact, necessary to determine the applicability of section 552.107, you did not provide this information to this office at the time we ruled on your original request. Chapter 552 of the Government Code places on a governmental body the burden of establishing why and how an exception applies to requested information. Open Records Decision Nos. 542 (1990), 532 (1989). If a governmental body does not establish how and why an exception applies to requested information, there is no basis on which to pronounce it protected.

Open Records Decision No. 363 (1983). *See also* Open Records Decision No. 419 (1984) (general claim that exception applies to entire record, where exception clearly not applicable to all information in that record, does not comport with chapter 552's procedural requirements).

Because you did not meet your initial burden in establishing the applicability of the attorney-client privilege to the information that is now at issue, we decline to reconsider our decision in OR96-0028.

Yours very truly,

A handwritten signature in black ink, appearing to read 'RWS' followed by a stylized flourish.

Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/ch

Ref.: ID# 38353
OR96-0028

Enclosures: Submitted documents

cc: Mr. Steven R. Friedman
1134 Woodbridge Avenue
Pearland, Texas 77584
(w/o enclosures)